S.B. Civil Writ Petition No.7911/2007
Tapan Gandhi
vs
The State of Raj. & Ors.

Date of order : 5.12.2007.

HON'BLE MR. PRAKASH TATIA, J.

Mr.Manoj Joshi,for the petitioner.

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Heard learned counsel for the petitioner.

The grievance of the petitioner is that the trail court has committed error of law by striking off defence of defendant no.4 for non-compliance of the trial court's order dated 9.2.2007 by which the trial court allowed the petitioner's application filed under Order 11 Rule 12 and 14 CPC and directed the respondents to produce the documents and the respondents have not produced the documents.

The trial court vide order dated 9.2.2007 after considering the facts of the case specifically directed the defendant no.4 alone to produce the documents and specifically has not directed other respondents to produce the documents. In view of the above, the action under Order 11 Rule 21 CPC could have been taken only against respondent no.4.

According to learned counsel for the petitioner, the respondents are one and the same and the documents were in possession of the office of the

respondent no.1 and its subordinates, therefore, the defense should have been struck off against all the defendants.

Since there is a specific order of the trial court wherein the trial court considered that the others are not liable to produce the relevant documents and, thereafter directed defendant no.4 alone to produce the documents, therefore, the defence of defendant no.4 alone can be struck off. The petitioner has not challenged the order dated 9.2.2007 directing the respondent no.4 alone to produce the documents, therefore, in view of the order dated 9.2.2007, no action could have been taken against the other defendants because that would mean to pass an order contrary to the order dated 9.2.2007 passed by the trail court whereby the trial court rejected the petitioner's prayer for direction against the other respondents for producing the documents.

In view of the above, I do not find any merit in this writ petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

c.p.goyal/-